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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,035	11/24/2003	Andrew Berglund	BerglundArm	6498
27119	7590	09/23/2005	EXAMINER	
ALBERT W. WATKINS 30844 NE 1ST AVENUE ST. JOSEPH, MN 56374			STERLING, AMY JO	
			ART UNIT	PAPER NUMBER

3632

DATE MAILED: 09/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/722,035

Applicant(s)

BERGLUND, ANDREW

Examiner

Amy J. Sterling

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_\_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This is the first Office Action for application number 10/722,035 Adaptive Arm Support, filed on 11/24/03. Claims 1-19 are pending.

#### ***Information Disclosure Statement***

The information disclosure statement submitted on 5/12/04 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 recites a "hand cup" and it is unclear if this is intended to be the same element as the "palm rest 22".

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-8 and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 1721221 to Jáuregui.

With regards to claims 1, 3-8 and 13-18, the patent to Jáuregui discloses an adaptive support having a base support (5) a first support member (8) pivotal about a first axis passing through the first support member and repositionable with respect to the base support along the first axis having a means (10) for variably setting a resistance to the first axis pivotal motion, a second support member (26) pivotal about a second axis displaced from the first axis and passing through the first and second support members having a means (28) which is an adjustable coupler, for variably setting a resistance to the second axis pivotal motion, a longitudinally extensive armrest (30) having a forearm rest and a hand cup (end of channel 30) pivotal about a third axis displaced from the second axis and passing through the second and third support members having a means (31) for variably setting a resistance to the third axis pivotal motion, the first second and third axis which are parallel, a pivotal member (30a) between the armrest and the second support member pivotal about a fourth axis angularly offset and perpendicular from the third axis having a means (31) for variably setting a resistance to the fourth axis pivotal motion, and an elbow pad (21) extendible from the armrest and pivotal about a fifth axis angularly offset and perpendicular from the armrest longitudinal axis and a means (23) for variably setting the resistance of the elbow pad.

With regards to claims 10-12, Jáuregui teaches an anchor (1) affixed to a support (8), at least one arm restraint (30) having a longitudinal axis and providing support for a users arm, a means (19, 26) for suspending and translating the arm restraint in a direction relative to the anchor member throughout and constrained within two axes, at least one means to provide height adjustment (19) having a rod (19) and a fastener (28) retaining the first support member at a position with respect to the anchor member (1) that is adjustable along a first axis when the fastener is released, the height adjustment of the arm restraint being offset to the planar region to the anchor member and a least one means of pivot the arm restrain in and out of the planar region. Jáuregui discloses that the translating restraint has a first support member pivotal about a first axis, the axis perpendicular to the planar region of arm restraint and passing through the first support member, and a second support member pivotal about a second axis having a means for variably setting a resistance to the second axis pivotal motion, the second axis displaced from and parallel to the first axis and passing through the first and second support members.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. Jáuregui as applied to claims 1 and 13 above, and in view of United States Patent No. 6000916 to Martin et al.

Jáuregui discloses applicant's basic inventive concept, all the elements which are shown above and including that the means for variably setting a resistance is a set screw. Jáuregui does not show wherein the set screw has a bushing adjacent to and engaging the first axis.

Martin et al. teaches a set screw (38) which has a brass tip (See Col. 4 line 25) which is used as a bushing, to aid in securing two elements together. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Martin et al. to have added a brass tip to the set screw as taught by Jáuregui in order to aid in securing the members together.

#### ***Allowable Subject Matter***

Claims 9 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The reason is that the prior art does teach wherein the support arm has a pair of L-shaped rods spaced from each other which are extendible parallel to the armrest longitudinal axis, the elbow pad being independently pivotal about each of the L-shaped spaced rods, wherein longitudinal extension of a first one of the pair of L-shaped rods

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while a second one of the pair remains anchored effectuates pivotal motion of the elbow pad in the fifth axis.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following documents show various arm support devices

6786461 to Tsai et al.

6704959 to Schuerch

6619747 to Ko et al.

6056162 to Leighley

5092552 to Dayton et al.

4997054 to Denny et al.

1515795 to Schwarting

Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 571-272-6823. The examiner can normally be reached (Mon-Fri 8am-5:00pm). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached at 571-272-6788. The fax machine number for the Technology center is 571-273-8300 (formal amendments), informal amendments or communications 571-273-6823. Any inquiry of a general nature or

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relating to the status of this application should be directed to the Technology Center  
receptionist at 571-272-3600.

A handwritten signature in cursive script, appearing to read "Amy J. Sterling".

Amy J. Sterling

9/7/05